

**MINUTES OF THE  
SENATE COMMITTEE ON TAXATION**

**Seventy-third Session  
March 24, 2005**

The Senate Committee on Taxation was called to order by Chair Mike McGinness at 1:36 p.m. on Thursday, March 24, 2005, in Room 2135 of the Legislative Building, Carson City, Nevada. [Exhibit A](#) is the Agenda. [Exhibit B](#) is the Attendance Roster. All exhibits are available and on file at the Research Library of the Legislative Counsel Bureau.

**COMMITTEE MEMBERS PRESENT:**

Senator Mike McGinness, Chair  
Senator Randolph J. Townsend  
Senator Bob Coffin  
Senator Terry Care  
Senator John Lee

**COMMITTEE MEMBERS ABSENT:**

Senator Sandra J. Tiffany, Vice Chair (Excused)  
Senator Dean A. Rhoads (Excused)

**GUEST LEGISLATORS PRESENT:**

Senator Mark E. Amodei, Capital Senatorial District

**STAFF MEMBERS PRESENT:**

Chris Janzen, Deputy Fiscal Analyst  
Ardyss Johns, Committee Secretary

**OTHERS PRESENT:**

LeRoy Goodman, Board of Commissioners, Lyon County  
Marv Teixeira, Mayor, Carson City  
Mary C. Walker, City of Carson City, Douglas County, Lyon County  
Kelly Kite, Chair, Board of Commissioners, Douglas County  
Gaylyn J. Spriggs, Nevada Taxpayers Association  
John L. Wagner, Burke Consortium of Carson City

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Joseph Guild, Elko County  
Raymond Bacon, Nevada Manufacturers Association  
John Slaughter, Washoe County  
Andrew List, Nevada Association of Counties  
Mary-Margaret Madden, Deputy District Attorney, Civil Division, Carson City  
Dino DiCianno, Deputy Executive Director, Department of Taxation

CHAIR MCGINNESS:

This meeting of the Senate Committee on Taxation will come to order. We will open the hearing on Senate Bill (S.B.) 169.

**SENATE BILL 169**: Authorizes boards of county commissioners of smaller counties to use money in infrastructure fund for certain projects, facilities and activities. (BDR 32-147)

SENATOR MARK E. AMODEI (Capital Senatorial District):

I would like to voice my support of S.B. 169, and I will turn the microphone over to the persons who can give you the best explanation of what this bill does.

LEROY GOODMAN (Board of Commissioners, Lyon County):

I am here in support of S.B. 169 and will ask Mayor Teixeira to go over the reasons for which we feel this bill is important.

MARV TEIXEIRA (Mayor, Carson City):

This bill is basically a make-or-break measure for the Virginia and Truckee (V&T) Railway project. In the packet furnished to you ([Exhibit C](#)), page 2 shows what the Nevada Commission for the Reconstruction of the V&T Railway has accomplished so far. As you can see, we started the Tri-County Rail Commission in 1992. It started with Carson City, Storey and Lyon Counties and now includes Washoe and Douglas Counties. When this began, the biggest single obstacle was the Overman Pit. It took 13 years, until 2005, before a contract was awarded for the Overman Pit project. Page 3 shows the estimated cost of each of the different phases. The total estimated cost is just over \$36 million.

The next page shows what has been funded so far, and you can see why it has taken 13 years to get the first project under way. We have spent a total of close to \$10 million. Bonding by the Carson City Convention and Visitors

Bureau (CCCVB), against a 2-percent room tax, is what allowed the project for the Overman Pit to go forward. If this project is ever going to be completed, the answer is funding.

We have \$27 million to go, as you can see on page 5. The amount we would gain with S.B. 169 equals \$15 million and will be used in this way: Bonding of 0.125-percent sales tax, plus a commitment from the CCCVB for another 1-percent increase of room tax, based upon the \$15 million. The \$15 million will provide a match of \$5 million from the State as provided in the proposed V&T Bill, for which Bill Draft Request (BDR) S-1402 will be introduced in the Assembly today. Then, there will be federal funding of \$5 million to \$10 million as a result of a commitment from Senator Harry Reid, whose quote is shown on the bottom of page 5. Page 6 outlines the economic benefits.

I draw your attention to the pie charts shown on the next page. This is not a Carson City project, but rather a regional project. It also benefits Washoe, Lyon, Douglas and Storey Counties. It is the most famous short-line railroad in the world. The V&T Web site has had hits from 30 different countries. With the passage of S.B. 169, we could potentially have funding this year for the whole project. The stars are aligned. If S.B. 169 goes forward, it will provide a minimum \$15 million, and with the associate bill coming out of the Assembly, we have momentum. We have been trying to sell a ghost for 13 years, and we, now, are finally laying track. We actually went out and bought our first steam engine. We had to put it on time payments, but we bought it, because steam engines are extremely difficult to find. I sincerely request this body give S.B. 169 considerable consideration because it is absolutely the bill to allow this project to go forward.

SENATOR LEE:

Page 3, line 7 of S.B. 169 refers to operation and maintenance. The operation and maintenance of the railroad itself, I can understand, but are you wanting to incorporate operation and maintenance of all these other facilities as well?

MAYOR TEIXEIRA:

No, my intent on this project is strictly from a construction phase. What allows us to go forward with this is the added text starting on line 13 of page 3, where it says, "The construction or renovation of facilities having cultural or historical value." It is an amendment to *Nevada Revised Statute* (NRS) 377B.160.

MARY C. WALKER (City of Carson City, Douglas County, Lyon County):  
Currently, NRS 377B.100 allows counties the ability to implement a 0.25-percent sales tax for infrastructure. All S.B. 169 does is expand the authority of what we can use the tax for. It does not give us any new taxing authority. Clark and Washoe Counties have been able to implement this tax because they had a list of things for which they could actually use the tax. All we are doing with this bill is adding two additional uses for which we can use our current authority of the 0.25-percent sales tax. The first use for which we have authority is on page 3, line 3, where it says,

The acquisition, establishment, construction, improvement or equipping of: (1) Water facilities; or (2) Wastewater facilities; (b) the acquisition, establishment, construction, operation, maintenance or expansion of: (1) Projects for the management of floodplains or the prevention of floods; or (2) Facilities for the disposal of solid waste.

We already have the authority to construct the projects for floodplains or solid waste. The problem is the operation and maintenance of those projects is very expensive. A lot of the rural counties have not implemented the 0.25-percent sales tax for these projects because, once the projects are completed, they do not have the money with which to operate them. It is a very small change. Washoe County already has the ability to use this same 0.25-percent sales tax for the operation and maintenance of their floodplains. We just want the same ability.

The second change allows us to use the 0.25-percent sales tax for construction or renovation of facilities having cultural or historical value, which could include the V&T. You have letters from the City of Elko, Elko County and Nye County ([Exhibit D](#)) in support of S.B. 169. They have a lot of historic resources for which they do not have the funding to renovate.

We already have the ability to use the 0.25-percent tax, but none of the rural counties have implemented it because the list we currently have is so restrictive.

SENATOR LEE:

Does this not require a vote of the people?

MS. WALKER:

No. You already gave us the ability to implement a 0.25-percent sales tax for water- and sewer-type projects. This bill would allow us to use it for something we need.

CHAIR MCGINNESS:

Page 3, line 7, where "operation and maintenance" have been added, only refers to water facilities and wastewater facilities. It does not include operation and maintenance on the V&T Railroad.

SENATOR CARE:

What if you have a school somebody decides has historical value? Do we have a statutory definition, or would we necessarily need one, of what is of cultural or historical value? I have a letter from the Nevada League of Cities and Municipalities ([Exhibit E](#)), which has not even been part of the discussion, so far. Because this bill goes to rural counties, somebody in another county may have a different read on it altogether. I am looking for some purposes of legislative intent. What do you mean when you say cultural or historical value?

MS. WALKER:

Historic properties, as defined in federal law and with the Office of Historic Preservation, are 50 years old or older. Nye County supports S.B. 169 as does the City of Elko and some of the others from whom you have letters, particularly in regard to the floodplains. Nye County may have problems with flood control in the Pahrump area, which is one of the reasons they were supportive of this bill.

Some of the other areas, such as the City of Elko, also have historic properties they are unable to maintain, which is one of the reasons for their support of this bill.

KELLY KITE (Chair, Board of Commissioners, Douglas County):

I am here to support this in three ways. The first is the construction of the V&T Railway. As Ms. Walker said, we have the ability, now, to impose a 0.25-percent sales tax to construct facilities for flood control. As all of you know, building a project is the least expensive part. The true expense comes afterward. None of the smaller counties have implemented the 0.25-percent sales tax at this point because there was no funding ability to operate or

maintain a project upon its completion. For example, we require a new development to provide for flood control, which usually ends up being detention ponds. Once the detention pond is built, there is no money to maintain it. There is nothing to keep the weeds down, and if it washes over, it cuts into the bank. There is nothing left with which to take care of those things. Even though we currently have the ability to build detention ponds, or whatever we need for flood control, once they are built, we do not have the authority to operate and maintain those facilities.

Regarding historical and cultural value, we are working with the Division of State Parks on the Dangberg Home Ranch. The Dangberg family settled the Carson Valley. We have an agreement with State Parks to make that facility available, but there is no money to continue operation and maintenance of a 1850s ranch house. We have the ability to build flood control structures or to start renovation of a historical, significant piece of property, but once the initial money is spent, we do not have the ability to use that same-source money to keep it in operation or to maintain it, which is why you see all of the counties coming forward in support of this bill.

SENATOR COFFIN:

Do we have unanimity, now, in three counties for bringing the V&T forward?

MAYOR TEIXEIRA:

I am on the V&T Commission, as is Douglas County Commissioner James Baushke. The Commission started out as three counties, Carson City, Lyon and Storey. It has now been expanded to include Douglas and Washoe Counties. All of these counties will benefit from the V&T Railway.

SENATOR COFFIN:

They certainly will. The V&T Railway is known all over the world. As a person who sells and buys things relating to railroads and other Americana-type items, I know the V&T, of all of the railroads, has an enormous following.

MAYOR TEIXEIRA:

A V&T symposium is held in Carson City each year, and it is always booked up. We bought a locomotive, we let our first contract for \$5 million, and now we are getting write-ups in other publications. This project has momentum, and it is imperative for us to fund it while it is hot. There will now be other people who

want to play because it is no longer just a thought, but a fact. We need to fund it at this time, and Carson City is willing to step up to the plate and take it on.

SENATOR COFFIN:

Fourteen years ago you had the chance to buy the old roundhouse.

MAYOR TEIXEIRA:

Yes, and you people beat me up pretty hard, at that point.

SENATOR COFFIN:

You deserved it.

MAYOR TEIXEIRA:

Now it is your turn to save this one and make it go forward.

SENATOR COFFIN:

We could not figure out where to find the money 14 years ago, because it was a short-money year. Here, you are paying for it yourself.

GAYLYN J. SPRIGGS (Nevada Taxpayers Association):

The Nevada Taxpayers Association supports this bill. We believe the rural counties need the help, even though the 0.25 percent would probably not be enough for them to construct something for a long time. They have to save up the money because 0.25 percent does not generate much in the rural counties.

JOHN L. WAGNER (Burke Consortium of Carson City):

My first knowledge of this came when I read about it in the *Nevada Appeal*. I looked up S.B. 169 and said, "What is this all about?" I have heard mentioned 0.125 percent. Suddenly, it is 0.25 percent, according to the people talking about it here, so I do not know how much money they are really trying to appropriate. In the last election, Carson City Advisory Question No. 1 on the ballot was for exactly what is going on here in the bill on page 3, lines 7 and 8. The Carson City voters voted against it saying they did not want a sales tax added for those purposes. This looks like a backdoor way of doing what the voters voted against.

Further, I see nothing in S.B. 169 saying anything about the V&T Railroad. Why not just come up front and do something for the V&T, instead of trying to do it in a sneaky way. I definitely oppose this.

Also, we are at a disadvantage here in Carson City when compared to our neighbors only about a mile down the road in Douglas County. We already pay more in sales tax than they do. The only saving grace we have in this city is the car dealerships. The residents of Douglas County can buy a car here in Carson City, take delivery at their home and save the Carson City tax, which then goes to Douglas County and saves them money. Douglas County would definitely be in favor of this bill. If I lived in Douglas County, I would be in favor of it, as well.

CHAIR MCGINNESS:

Let me point out, S.B. 169 does not give the boards of county commissioners the authority to raise taxes. It just gives them the authority, in an expanded format, to spend the money they already have.

MR. WAGNER:

I keep hearing a sales tax increase of 0.25 percent.

CHAIR MCGINNESS:

There is no tax increase included in this bill.

MR. WAGNER:

Where does the bill authorize money for the V&T Railroad?

CHAIR MCGINNESS:

On page 3, starting on line 13 where it says, "The construction or renovation of facilities having cultural or historical value," it would include the V&T Railroad.

MR. WAGNER:

It is a sneaky way of doing it, if I say so myself.

CHAIR MCGINNESS:

That is why we have these public hearings.

MAYOR TEIXEIRA:

Carson City Advisory Question No. 1, to which Mr. Wagner referred, asked for a 0.125-percent sales tax to fund a storm drain utility, which is a different program. There was never any intent to bring back what the people turned down. What we will do with this is strictly apply it to the V&T as it has been proposed.



MR. WAGNER:

Can we strike out the additions to lines 7 and 8, "operation and maintenance"? Whether you call it floodplain or storm drain, it is all the same thing. Whether you call it taxes or fees or whatever, it all does the same thing. It all costs the taxpayers money. I guess it is a matter of wording and semantics.

CHAIR MCGINNESS:

The boards of commissioners are saying once they get these facilities built, they do not have the ability to maintain them. I think the whole point of the bill is to correct that problem.

SENATOR COFFIN:

Mr. Wagner, what was the vote on the advisory question?

MR. WAGNER:

I do not remember the exact vote, but I think the vote was something like 58 percent against. In fact, I am very happy to say I wrote the argument for the opposing side.

SENATOR COFFIN:

What was the reason it was defeated? Did it have to do with people not believing there was a need to buttress up the facilities here?

MR. WAGNER:

I argued it was an unfunded mandate by the federal government. It put us at a disadvantage versus Douglas County as far as the sales tax is concerned. Also, there were other ways to fund it. We will probably get the plant anyway, and we do need flood control, but raising the sales tax was not the proper way to fund it.

MS. WALKER:

Carson City Advisory Question No. 1 was a ballot question stating the need for flood control, and asked the voters how they wanted to pay for it. Should we pay for it from sales tax or should we pay for it from a utility fee? It was very clear. It said if the voters did not want to pay the additional 0.125 percent sales tax, then we would have to create a utility fee. They voted against the sales tax, so now Carson City collects a utility fee to pay for the operation and

maintenance, as per direction of the voters. That really has nothing to do with this. This bill deals with 14 other counties, and most would like to see the kind of help it would provide.

JOSEPH GUILD (Elko County):  
I want to go on record reiterating support for S.B. 169.

CHAIR MCGINNESS:  
We will close the hearing on S.B. 169. We will get the necessary information from staff before we include it in a future work session. We will open the hearing on S.B. 170.

**SENATE BILL 170**: Authorizes certain smaller counties to impose additional local sales and use tax under certain circumstances. (BDR 32-853)

MR. GOODMAN:  
Senate Bill 170 authorizes counties of less than 100,000 population to enact, with voter approval, an ordinance to impose a local sales tax at the rate of not more than 0.25 percent to operate, maintain and construct libraries, parks, recreational programs and facilities, facilities and services for senior citizens or any combination of those purposes. It would provide rural local government greater self-sufficiency and less reliance on funding from the more urban communities. It gives rural counties some of the critical tools we need in order to help ourselves and achieve greater self-sufficiency. Most of the rural counties have a sales tax of 6.5 to 7 percent, whereas Washoe and Clark Counties have from 7.375- to 7.5-percent sales tax. Senate Bill 170 would be a tool to help close that gap and provide greater rural tax relief.

I can talk for Lyon County, specifically. It is a county of approximately 45,000 residents and it supports 5 libraries. We maintain eight different regions having parks, and some of those regions have more than one park. We also maintain four senior centers. A 0.25-percent sales tax would generate approximately \$1 million per year, which would be very beneficial for Lyon County, as well as a lot of other rural counties.

MR. KITE:  
Douglas County has the same problem referenced in Mr. Goodman's testimony. We have an aging community, but when we went forward with a ballot question to use the utility fund to fund a community center, it failed miserably.

Though we recognize the need for maintaining our senior center, the voters did not want to pay a utility tax to fund it, so now we are looking for another funding source. This 0.25-percent increase would not be enacted without a vote of the people. We have a serious problem with senior facilities and services in Douglas County. This will be an opportunity to take another funding opportunity back to the voters for their approval.

MAYOR TEIXEIRA:

All S.B. 170 is really asking for is the ability to take a proposition to the people for using sales tax versus ad valorem. If you use the analogy of a 0.125-percent sales tax, what does it really cost the average guy on the street? If a family has \$150 per week after they pay their house, car, insurance, fuel, food and all the other necessities, they have \$600 per month, which would probably be above the average. A 0.25-percent tax on \$600 would amount to 75 cents, making it an easier product to sell to the people than an ad valorem hit. All we are asking for is the ability to take different projects to the people with this vehicle. We will do the heavy lifting, but the people will make the decision. You have some communities out there at their tax cap, and they have needs and want to do something about those needs. This is just a vehicle for the rural counties to fund projects the people want, not necessarily what the bureaucracy wants.

MS. SPRIGGS:

If this bill is going to pass, we would request you add an amendment to say it is limited to 30 years, which will make it consistent with other statutes.

CHAIR MCGINNESS:

The authorization for them to ask for this would have a 30-year limitation?

MS. SPRIGGS:

Yes.

RAYMOND BACON (Nevada Manufacturers Association):

I neither oppose nor support this bill, but I will offer one cautionary note. Zip codes are going to be used to determine what the zones are. You have a couple of cases where a zip code crosses over a county boundary, so we would need to check with the U. S. Postal Service in order to make this thing clean. The zip code in Moundhouse, which is in Lyon County, is 89706.

Therefore, if Lyon County approved it and Carson City did not, we would have a problem. I have no idea what that process is, but a resolution would have been reached.

CHAIR MCGINNESS:

We will ask Chris Janzen, our Deputy Fiscal Analyst, to work on a solution.

MR. GUILD:

The Elko Board of County Commissioners has expressed its support of S.B. 170.

CHAIR MCGINNESS:

We have also received a letter from Laura Billman, Nye County, on behalf of the Nye County Board of Commissioners in support of S.B. 170 ([Exhibit F](#)). We will now close the hearing on S.B. 170 and open the hearing on S.B. 180.

**SENATE BILL 180**: Increases maximum amount of compensation board of county commissioners is authorized to provide for certain members of county board of equalization. (BDR 32-453)

JOHN SLAUGHTER (Washoe County):

Senate Bill 180 is a bill approved by the Washoe County Board of Commissioners to be brought forward and considered this Legislative Session. It allows an increase in the allowable rate of compensation for a county board of equalization member. Currently, compensation can be no more than \$40 per day, which was established in 1981. This bill would increase that amount to no more than \$125 per day. As you are all aware, there is keen interest, statewide, in evaluation of property, which translates to an increased workload for our boards of equalization. The Washoe County Board of Equalization has seen an ever-increasing workload over the past few years. They have gone from meeting 8 to 10 times per year to an average of over 20 meetings per year. Those meetings typically fall within a one-month period of time. They are averaging between eight and ten hours per meeting and, in some cases, even longer. With a workload of reviewing 1,200 to 1,600 appeals, they are seeing 3 to 4 hours of preparation time before each meeting.

Because this does affect boards of equalization statewide, in reviewing the practice statewide, there is a lot of variation. Some counties do pay the \$40-per-day rate to their board members, while some do not compensate their

board members at all because, perhaps, their workload is not as significant and they only need a few days out of the year. When you look at the workload they are currently experiencing, eight hours per day minimum, the current compensation they are receiving is less than the federal minimum wage.

SENATOR COFFIN:  
How long has it been \$40?

MR. SLAUGHTER:  
It was established at \$40 in 1981. Prior to that, there was no compensation.

CHAIR MCGINNESS:  
We will close the hearing on S.B. 180 and open the hearing on S.B. 186.

**SENATE BILL 186**: Makes various changes concerning appeals to State Board of Equalization. (BDR 32-585)

ANDREW LIST (Nevada Association of Counties):  
I am here, today, seeking support for S.B. 186, which would codify the right of the county assessor to appeal decisions by the State Board of Equalization to district court, pursuant to the Administrative Procedure Act in NRS chapter 233B. This bill received unanimous approval by the Nevada Association of Counties (NACO) Board of Directors and has the support of all of Nevada's 17 counties.

This bill arises from cases currently pending regarding Mineral County and Carson City. By way of history, Mineral County has been involved in a taxation dispute with the county's largest employer and taxpayer since the mid-1990s. The dispute relates to how possessory use tax should be calculated pursuant to statute and whether the prohibition of taxable value exceeding market value is applicable in these instances.

In 2003, the Mineral County Assessor appealed a decision of the State Board of Equalization to the First Judicial District Court based on this legal issue, pursuant to the Administrative Procedures Act. The court dismissed the appeal, stating that because the County was not given the specific power of appeal by statute, it did not exist. Mineral County appealed this decision to the Nevada Supreme Court, where the case is currently pending.

This bill is of importance to county governments and other jurisdictions that rely on property tax because they could be left without remedy or recourse when the State Board of Equalization makes legal errors. Such legal errors could result in lost revenue to government entities. In Mineral County's case, lost revenue forced the County Board of Commissioners to increase the property tax rate to \$3.64, the maximum allowable by law.

Because Mineral County would like to move forward with its appeal, and because the outcome of the pending case is unknown, the County asked NACO to carry this bill forward. The decision of the First Judicial District has had ramifications for other jurisdictions.

CHAIR MCGINNESS:

I see you also have a proposed amendment to S.B. 186 ([Exhibit G](#)).

MR. LIST:

When the bill came out of drafting, it did not look exactly like we had expected. We had asked for counties to be able to appeal legal issues only, from the State Board of Equalization. Keep in mind, the taxpayer, by statute under NRS 361, can still appeal a State Board of Equalization decision to the district court, whether it is a legal issue or on valuation. What we are looking for is specific authority, on legal issues only, for the county to appeal decisions to district court.

CHAIR MCGINNESS:

It looks like you would eliminate everything from line 18, starting on page 2, through line 3 on page 3.

MR. LIST:

That is correct.

SENATOR CARE:

During my time in the Legislature, this is not the first time we have had proposed legislation that, if enacted, would have the effect of looting or, at least, having a major impact on pending litigation. The difference is, you are being up front about it. I recall other cases where you find out later the true intent of the bill.

You are only talking about legal issues and not valuation. A case now pending before the Nevada Supreme Court deals with the same issues and arguments contained in the briefs. The Supreme Court may very well end up doing what you want the Legislature to do. Am I correct?

MR. LIST:  
That is correct.

SENATOR CARE:  
Has there been no oral argument, yet, just the briefs?

MR. LIST:  
That is correct.

SENATOR CARE:  
I would be interested in seeing if we are going to hear from the Mineral County assessor. You never know what to do when these situations arise. We can come up with a good policy argument, but it would obviously be moot in this case if the Legislature passes this bill through and the Governor signs it.

MR. LIST:  
Yes, the case would disappear. Mineral County would withdraw its appeal.

With me today is a deputy district attorney in the Carson City District Attorney's office who will briefly discuss Carson City's case and outline its support for S.B. 186.

MARY-MARGARET MADDEN (Deputy District Attorney, Civil Division, Carson City):  
I dealt with a very interesting case when I first got on board in the Civil Division, back in 2003. The Carson City Assessor had a case the State Board of Taxation ruled against. The intricacies of the case, in my opinion, were plain language in the statute. We felt they interpreted the plain language wrong and were misapplying plain language. Now, this Mineral County case comes along, and we find out we cannot appeal, so there is no recourse. Essentially, the State Board of Equalization, with all due respect, is setting precedent in regard to statutes and deciding how they are read and interpreted. If the interpretation is by the taxpayer, they have some recourse. The First Judicial District order ruling against an entity being able to appeal did not even address NRS 233B. The whole reason for NRS 233B is to give recourse to entities such as assessors.

SENATOR CARE:

I wrote myself a note that says, "overcome by clear and convincing proof." I must have been looking at some annotations under NRS 233B, which I do not have here in front of me. Was there some ambiguity contained in NRS 233B? I am not sure if you have conflicting parties interpreting the same statute in a different manner, or if there is an attempt, here, to actually change the statute just because, in this case, NACO, or maybe Carson City, wants it to read a certain way.

MR. LIST:

The issue really is not with NRS 233B. The issue is with NRS 361. The decision by the district court said counties are creatures of State government and only have those powers given to them, and those powers that are specifically granted. Without those powers, you simply do not have the power. Since NRS 361 gives the taxpayer the ability to appeal, but not the county and not the assessor, then the county does not have that particular power, which to us, contradicts what NRS 233B says. *Nevada Revised Statute* chapter 233B gives any interested party to an administrative proceeding the right to appeal to district court, which, in our minds, includes local governments.

SENATOR CARE:

I am looking at NRS 361.400, subsection 3, and something certainly appears ambiguous to me. It says, "No appeal shall be heard and determined, save upon the evidence and data submitted to the county board of equalization, unless it is proven to the satisfaction of the State Board of Equalization that it was impossible in the exercise of due diligence ... ." Is that language relevant to this bill?

MR. LIST:

I am not sure if it means an appeal to the State Board or an appeal from the State Board, but I would leave it to your legal counsel to answer with more clarity.

MS. SPRIGGS:

We would just like to reiterate the State and local boards of equalization were created as an outlet for the property owner and never meant to be anything else. The amendment, [Exhibit G](#), improves the bill. Having the last sentence read, "Such judicial review shall be limited to issues of law and not include issues of property evaluation," makes it even better. We do not believe the



issue of the property valuation itself should be of issue once it gets past the State Board or once it gets to the State Board. We would be opposed to seeing anything that diminishes taxpayers' rights or tilts the scale to the other direction where the county can come in and say, "We cannot do anything with the valuation, even if it is right, because we will lose money."

DINO DICIANNO (Deputy Executive Director, Department of Taxation):

The Department of Taxation was initially opposed to the original language contained in S.B. 186. We have reviewed the amendments and there needs to be some clarification. Senator Care was getting to the heart of the matter in his earlier comments. The judicial procedure process in NRS 233B is different than it is in NRS 361. I would like to draw your attention to NRS 361.410 and NRS 361.420. We had a similar issue with respect to the Department and the decisions of the Nevada Tax Commission. As you recall, with the passage of S.B. No. 375 of the 69th Session, the Department of Taxation is no longer afforded the opportunity to appeal a final decision of the Nevada Tax Commission, nor are we allowed to appeal a decision of the State Board of Equalization. This is a similar issue.

We have discussed this with our legal counsel for the Department. By invoking NRS 233B, in light of the other provisions in NRS 361, you are muddying the waters. The judicial review process is different in NRS 361 than it is in NRS 233B. If this body agrees they should have the ability to become a party for judicial review, so be it. The Department will honor it. Our only concern is if you invoke NRS 233B along with NRS 361, it will muddy the water because the procedures are different.

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CHAIR MCGINNESS:

We will close the hearing on S.B. 186. Since we do not have all Committee members here today, we will hold all of these bills for a work session. We are adjourned at 2:39 p.m.

RESPECTFULLY SUBMITTED:

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Ardyss Johns,  
Committee Secretary

APPROVED BY:

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Senator Mike McGinness, Chair

DATE: \_\_\_\_\_